

Findings and Recommendations – 3-67 AR Escalation of Force Incident

Their actions also met the EOF flow as outlined on Page 106-4.⁴² The ranges for signals, warning shots, and the use of deadly force were within the specified distances shown in the 4ID Leader's Handbook.

Regarding the other components of the EOF Flow, the soldiers were well trained, used the equipment they carried with their convoy (traffic cones), prepared for the mission with an ROE/EOF briefing, and escalated force in graduated means. After the discharge of the weapons, they secured the site, attempted to render first aid, and reported the incident immediately. The platoon leader also coordinated with on-site Iraqi Police for further disposition of the local national and his vehicle.

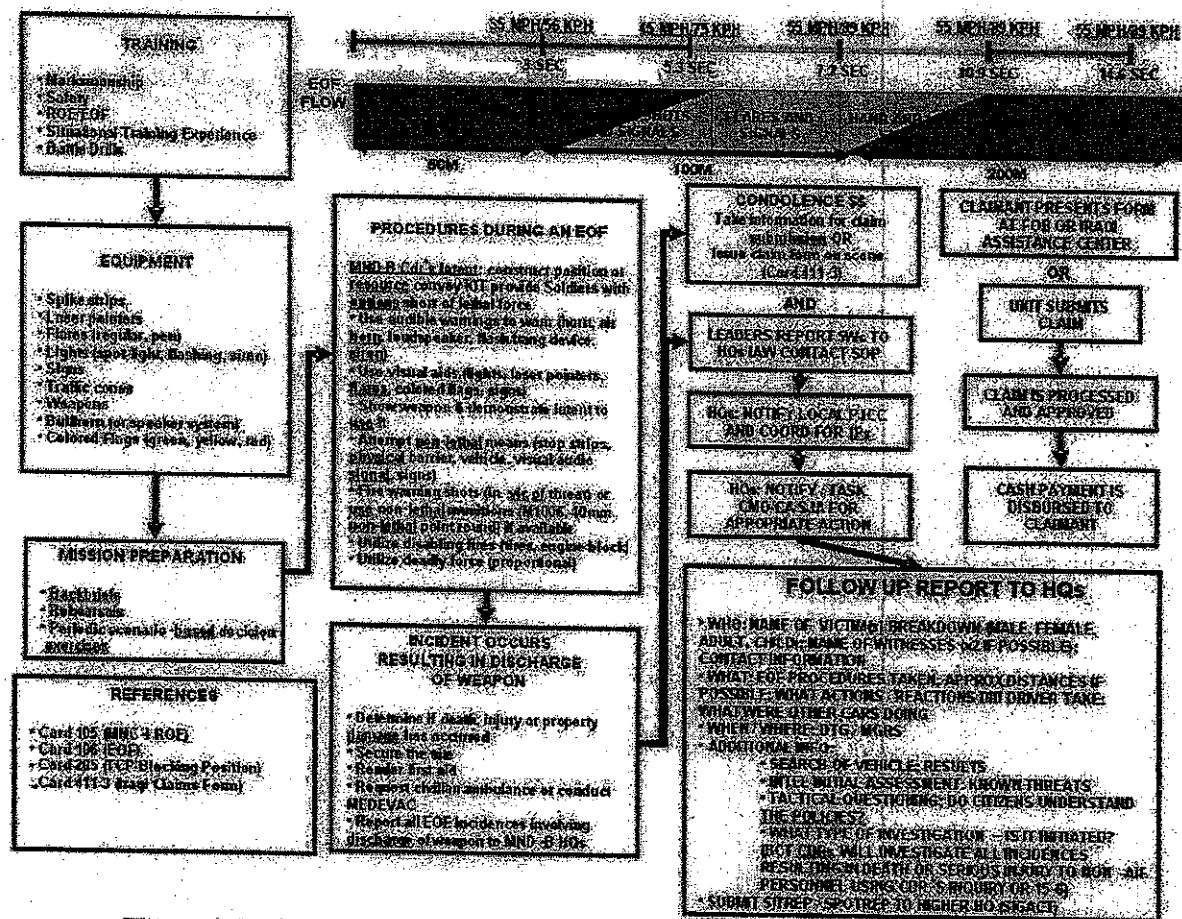


Figure 2. Escalation of Force Components from Change 1 to 4th Leader's Handbook.

However, the "facts and circumstances" in which the Soldiers executed the Escalation of Force need to be changed. Specific recommendations are provided in Section (e).

d. Was the TCP/Security Position set up IAW the MND-B TCP SOP and 4ID OIF Leader's Handbook (cards 204 and 205)?

No. There are two elements from the MIND-B SOP in which the EOF incident exhibited deficiencies.

42 Exhibit N.

Findings and Recommendations - 3-67 AR Escalation of Force Incident

Shortcoming #1. The MND-B SOP specifically states to "fire warning shots [REDACTED] EX 2
[REDACTED] if the vehicle does not stop.⁴³ [REDACTED] fired a warning shot over the EX 6
vehicle.⁴⁴

Shortcoming #2. The platoon did not set up all of the physical barriers IAW the MND-B TCP-Blocking Position SOP because they did not have the TCP Kit with their vehicles. They only had traffic cones and stop paddles for the gunners.

Of note, the TCP Kit consists of:⁴⁵

TCP KIT

1. (2x) Alert Signs
2. (1x) Warning Sign
3. (1x) Stop Sign
4. (1x) Stop Paddle
5. (5x) Sawhorses or (10x) Traffic cones or (7x) Warning triangles
6. (5x) bean-bag lights or similar flashing / warning lights
7. (3x) spike-strips, roles of C-Wire, or similar vehicle disabling device
8. (1x) portable speedbump, or field expedient substitute (Sandbags, track, etc.)
9. Flashlights (2 per Screening team and search team)
10. Pre-Printed instructions in Arabic or have a translator at the screening team location
11. (5x) body bags
12. (20x) Detainee Forms
13. (20x) Zip Ties
14. Laminated search instructions, curfew violation warnings, contraband list, weapon's policy guidelines, and female search instructions
15. Search mirrors
16. (10 pair) rubber gloves

However, the MND-B Blocking Position SOP states that [REDACTED] EX 2
[REDACTED] Although they did not have
concertina, the platoon did act within the intent of the SOP with the use of their traffic cones and
placement of personnel to clearly communicate to local nationals that the road was being
blocked.

The MND-B Blocking SOP also states that [REDACTED] EX 2
[REDACTED] No such deliberate decision was made, even though the platoon
acted within the intent of the SOP.

The major graduation of force that the platoon did not have the capability to execute was to physically block traffic at a stand-off distance from friendly forces. The presence and use of spike strips may have stopped the local national's vehicle and prevented the further escalation of force that resulted in the local national's death.

⁴³ Exhibit O.

⁴⁴ Exhibits B, F, G.

⁴⁵ Exhibit O.

⁴⁶ Exhibit O.

⁴⁷ Exhibit O.

Findings and Recommendations – 3-67 AR Escalation of Force Incident

Of note, Card 204 does not apply to this situation. It pertains to dismounted suicide bombers.⁴⁸

e. What, if any, corrective actions, training, or changes to procedures should be made?

1) Warning shot TTPs – Placement of the Warning Shot. Recommend training of all platoons on the proper selection of an aiming point for a warning shot. [REDACTED] ex2

2) TCP – Blocking Position Equipment.

a) Recommend immediate unit-wide inventory of TCP kits to obtain accountability at the BN and BDE levels.

b) Recommend purchase of equipment to fill shortages by the quickest means available. Recommended distribution: 1 kit per four (4) up-armored vehicles.

c) Recommend deliberate analysis as to whether and how (i.e. load plan) the TCP kit can be carried on a four-vehicle M1114 convoy, along with the other standard loads such as water, ammunition for crew-served weapons, CLS bags, and forcible entry tools. If the TCP kit can be loaded, then continue to enforce the MND-B SOP. If it cannot, then modify the standard so that it is enforceable.

3) Non-lethal means. Recommend the purchase of green laser pointers on a broader basis of issue: two per vehicle. This basis of issue will provide one laser pointer for the gunner and one for the TC for use in dismounted operations. It is necessary to ensure more US Soldiers have non-lethal, visual means at their disposal to clearly communicate the intent to escalate force against a perceived threat.

4) Condolence Payment. A condolence payment should be offered to the surviving family of the deceased, Khader Abdu Mary for his death in the Escalation of Force incident.

5) Light pole repair. The coalition forces should pay for the contracted repair of the light pole damaged by the car.

f. Was there any damage to civilian personnel or property? If so, were claims cards distributed to personnel?

Yes. One local national (Khader Abdu Mary⁴⁹) was killed and his 1986 Volkswagen Passat sustained damage. Specifically, the front of his vehicle and two front wheels were totaled, presumably when it struck the light pole.⁵⁰ Also, the front windshield and driver's side window were broken.⁵¹ There was no surviving victim to whom the Soldiers could issue a claims card on site. The matter was turned over to Iraqi Police on the scene.

⁴⁸ Exhibit P.

⁴⁹ Exhibit Q (Page 5B).

⁵⁰ Exhibit Q (Page 2B).

⁵¹ Exhibit Q (Page 2B).

SECTION V – RECOMMENDATIONS In view of the above findings, the investigating officer recommends:

In accordance with the "Appointment as the Investigating Officer" dated 5 February 2006, the Findings of the investigation include "What, if any, corrective actions, training, or changes to procedures should be made?"

All of the investigating officer's recommendations fall within this category and can be found in paragraph 'e' of "Section IV – Findings" on the previous page, page number 7.

Exhibit List

- A. Appointment as Investigating Officer, dated 05 Feb 06
- B. Serious Incident Report, dated 05 Feb 06
- C. Excerpt from Currahee SIGACTS, 050800FEB06 – 060800FEB06
- D. 3-67 AR Storyboard for Escalation of Force, 05 Feb 06
- E. Statement from [REDACTED], dated 05 Feb 06
- F. Statement from [REDACTED], dated 05 Feb 06
- G. Statement from [REDACTED], dated 04 Feb 06
- H. Statement from [REDACTED], dated 05 Feb 06
- I. Statement from [REDACTED], dated 05 Feb 06
- J. Statement from [REDACTED], dated 05 Feb 06
- K. Statement from [REDACTED] (translator), dated 05 Feb 06
- L. MOD 2 to Annex E (Rules of Engagement) to FRAGO 016 to Phase IIIA of Operations Order 05-07, dated 09 Jan 06
- M. Card 105 – MNC-I ROE Card, 4ID Leader's Handbook, dated 26 Oct 05
- N. Card 106 – Escalation of Force (w/pg. 106-4), 4ID Leader's Handbook, dated 01 Dec 05
- O. Card 205 – Traffic Control Point (w/new "MND-B TCP-Blocking Position SOP), 4ID Leader's Handbook, dated 01 Dec 05
- P. Card 204 – React to a Suicide Bomber, 4ID Leader's Handbook, dated 26 Oct 05
- Q. Iraqi Police Report documents, as of 10 Feb 06. (Translations provided by [REDACTED] 506th RCT, as of 11 Feb 06.)

SIR

From: B CO 3-67 AR

Thru: 3-67 AR

To: 4th ID / Division Operation Center

Subject: SIR

1. Category:

2. Type of Incident: EOP

3. DTG: 05 1257 FEB 06

A. DTG of Incident: 05 1145 FEB 06

B. DTG Unit was notified of Incident: 05 1145 FEB 06

C. DTG received by DOC:

4. Location: Baghdad (Baladiah), IRAQ (MB5206 9001)

5. Personnel involved:

A. Subject:

1. [REDACTED]
2. [REDACTED]
3. Caucasian
4. Male
5. 20
6. Loader
7. None
8. D/3-67AR, 4ID
9. Active Duty
10. Single

EL

B. Subject:

1. [REDACTED]
2. [REDACTED]
3. Caucasian
4. Male
5. 20
6. Loader
7. None
8. D/3-67AR, 4ID
9. Active Duty
10. Single

EX

C. Additional personnel involved: (use same format as 5.A. above): NONE

D. Summary of incident: 1/D/3-67AR, attached to B/3-67AR, was conducting an area recon of Baladiah and made a short stop to search a parking lot. At 05 1145 FEB 06 B/3-67 AR a LN Volkswagen Passat entered their security perimeter. At 200m hand & arm signals, and verbal commands were used to try and stop the vehicle. At 50-75m 1 x 5.56 warning shot was fired over the vehicle. The vehicle still did not stop and then 2 x 5.56 rounds were fired into the vehicle, 1 round struck the driver in the forehead and 1 shot impacted into the hood of the vehicle. The vehicle was traveling at approximately 15MPH and failed to respond to verbal and visual warnings and a warning shot. BDE Legal taught ROE/EOF to the soldiers of B/3-67AR on 25 JAN 06. All soldiers involved in this incident were present for the training. ROE/EOF is also briefed in every patrol brief prior to the patrol leaving the FOB.

6. Other Information:

- A. Racial: N/A
- B. Alcohol Involvement: N/A
- C. Last Deployment to OIF/OEF (include start and end dates): N/A

7. Remarks: NONE

- 8. Commander reporting: [REDACTED]
- 9. Point of contact: [REDACTED] EX4
- 10. Report originated by: [REDACTED]
- 11. Released by:
- 12. Unit Notifications:

A. Telephone: 677-1317

Position	Name	Time	Instructions
Company Commander	[REDACTED]	1215	
Battalion TOC	Battle Captain	1145	

B. Email

[REDACTED] EX6

EX2
➤ O AT 1148 3-67 AR REPORTS EOF AT [REDACTED] INITIAL
REPORT STATES 1 x LN KIA. RCT XO NOTIFIED OF INCIDENT. RCT
CDR NOTIFIED OF INCIDENT. MTF.

UPDATE

1158 MIND-B BTL NCO [REDACTED] NOTIFIED VIA VOIP. MTF. EX16

UPDATE

1215 3-67 AR REPORTS 2/B/3-67 AR HAD ESTABLISHED A SECURITY
POSITION DURING THE SEARCH OF A PARKING LOT AT THE INCIDENT
SITE. A LN CAR CROSSED THE ENGAGEMENT LINE ESTABLISHED BY
THE PLATOON. 1 x ROUNDS WERE FIRED AT THE LN VEHICLE AFTER IT
CROSSED THE ENGAGEMENT LINE. THE LN CAR CONTINUED AND WAS
ENGAGED A SECOND TIME, KILLING THE LN DRIVER OF THE CAR. THE
PLATOON MEDIC RENDERED AID TO THE LN OCCUPANT AND WAS
UNABLE TO STABILIZE THE LN. THE LN WAS PRONOUNCED DEAD ON
THE SCENE. MTF.

UPDATE

1238 3-67 AR REPORTS THAT THE SECURITY POSITION HAD
ESTABLISHED ROAD CONES AS TCP MARKERS. THE LN CAR DROVE
PAST THE ROAD CONES. THE UNIT FIRED THE FIRST SERIES OF SHOTS
TO THE SIDE OF THE VEHICLE IN AN ATTEMPT TO HALT THE VEHICLE.
THE LN VEHICLE CONTINUED TOWARD THE PATROL. THE PATROL
ENGAGED A SECOND TIME WITH 1 x ROUND TO DISABLE THE VEHICLE.
THE LN VEHICLE CONTINUED DRIVING TOWARD THE PATROL AND THE
PATROL ENGAGED THE VEHICLE A THIRD AND FINAL TIME KILLING THE
LN OCCUPANT OF THE VEHICLE. MTF.

UPDATE

1250 3-67 AR TOC REPORTS THAT THE PATROL EMPLOYED HAND AND
ARM SIGNALS AT 100M. THE PATROL ENGAGED THE LN VEHICLE WITH 3
x ROUNDS (5.56MM) ABOVE THE VEHICLE. THE PATROL ENGAGED THE
LN WITH LETHAL FORCE AT 35M WITH 2 x ROUNDS (5.56MM). STRIKING
THE LN IN THE FOREHEAD AND ABDOMEN, KILLING THE LN DRIVER.

UPDATE

1548 3-67 AR REPORTS EOF WITH SIR DESCRIBING THE FOLLOWING
ACTIONS: AT 200M HAND & ARM SIGNALS, AND VERBAL COMMANDS
WERE USED TO TRY AND STOP THE VEHICLE. AT 75-50M 1 x 5.56MM
WARNING SHOT WAS FIRED OVER THE VEHICLE. THE VEHICLE STILL
DID NOT STOP AND THEN 2 x 5.56MM ROUNDS WERE FIRED INTO THE
VEHICLE, INTENDED TO DISABLE THE VEHICLE. ONE ROUND STRUCK
THE DRIVER IN THE FOREHEAD (BELIEVED TO BE A RICOCHET) AND 1
SHOT IMPACTED INTO THE HOOD OF THE VEHICLE. THE PLATOON

MEDIC RENDERED AID TO THE LN OCCUPANT AND WAS UNABLE TO STABILIZE THE LN. THE LN WAS PRONOUNCED DEAD ON THE SCENE. THE VEHICLE WAS TRAVELING AT APPROXIMATELY 15MPH AND FAILED TO RESPOND TO VERBAL AND VISUAL WARNINGS AND A WARNING SHOT. IRAQI POLICE ALSO WITNESSED THE INCIDENT AND CONFIRMED THE VEHICLE WAS APPROACHING EXCEPTIONALLY FAST. BDE LEGAL TAUGHT ROE/EOF TO THE SOLDIERS OF B/3-67AR ON 25 JAN 06. ALL SOLDIERS INVOLVED IN THIS INCIDENT WERE PRESENT FOR THE TRAINING. ROE/EOF IS ALSO BRIEFED IN EVERY PATROL BRIEF PRIOR TO THE PATROL LEAVING THE FOB.

SUMMARY

1 x EOF
3 x ROUNDS FIRED (5.56MM)
1 x LN KIA
1 x LN VEHICLE DAMAGED

CLOSED OUT

> O AT 1150 4-320 FA REPORTS IPs HAVE SECURED PIED SITE (GRID UNK). 519 MP BN NOTIFIED AND WILL CONFIRM OR DENY REPORT AND LOCATION. MTF

UPDATE

1202 4-320 FA REPORTS IPs AND IP EOD HAVE SECURED PIED SITE AND CONFIRMED 2 x IEDs (DISMANTLED) AND 1 x IED (COMPLETE). IP EOD IS REQUESTING ASSISTANCE. 519 MP BN NOTIFIED AND WILL CONFIRM GRID IOT ALLOW US FORGES TO SECURE SITE AND DEPLOY US EOD TEAM. MTF

> O AT 1310 1-61 CAV REPORTED 2 x LN FILLING UP THEIR BLUE BONGO TRUCK WITH DIESEL FUEL AT [REDACTED] 2 x AIF RAN UP TO THE VEHICLE AND PLACED TNT INTO THE VEHICLE AND RAN FROM THE VEHICLE. THE BONGO TRUCK EXPLODED RESULTING IN 2 x LN WIA. LN WITNESSES RENDERED AID TO THE WIA LN. A SECOND EXPLOSION RESULTED. 3 x LN WERE KILLED AND ANOTHER LN WAS WIA. A/1-61 CAV IS SECURING THE INCIDENT SITE ICW AN IP PATROL. MTF

EX2

UPDATE

1315 1-61 CAV REPORTS PIED AT EXPLOSION SITE AND ARE REQUESTING EOD SUPPORT. BLUE-12 SUBMITTED.

UPDATE

3-67 AR 0511450 FEB 06 ESCALATION OF FORCE

SUMMARY:

1x EOF
3x ROUNDS FIRED (5.56MM)
1x LN KILLED
1x LN VEHICLE DAMAGED (2x 5.56MM IMPACTS)

SIGACT/EVENTS

WHO: 2/B 3-67 AR ICW IRAQI POLICE

WHAT: EOF

WHEN: 05 1145 FEB 06

WHERE: [REDACTED]

WHY:

TIMELINE/SEQUENCE OF EVENTS: AT 05 1145 FEB 06 B3-67 AR ALN VOLKSWAGEN PASSAT ENTERED THEIR SECURITY PERIMETER THAT WAS MARKED WITH ROAD CONES.

AT 200M HAND & ARM SIGNALS AND VERBAL COMMANDS WERE USED TO TRY AND STOP THE VEHICLE.

AT 150M 1x 5.56MM WARNING SHOT WAS FIRED OVER THE VEHICLE. THE VEHICLE STILL DID NOT STOP AND THEN 2x 5.56MM ROUNDS WERE FIRED INTO THE VEHICLE, INTENDING TO DISABLE THE VEHICLE. ONE ROUND STRUCK THE DRIVER IN THE FOREHEAD (BELIEVED TO BE A RICOCHET) AND 1 SHOT IMPACTED INTO THE HOOD OF THE VEHICLE. THE PLATOON MEDIC RENDERED AID TO THE LN OCCUPANT AND WAS UNABLE TO STABILIZE THE LN. THE LN WAS PRONOUNCED DEAD ON THE SCENE.

THE VEHICLE WAS TRAVELING AT APPROXIMATELY 10MPH AND FAILED TO RESPOND TO VERBAL AND VISUAL WARNINGS AND A WARNING SHOT. IRAQI POLICE ALSO WITNESSED THE INCIDENT AND CONFIRMED THE VEHICLE WAS APPROACHING EXCEPTIONALLY FAST. BDE LEGAL TAUGHT ROE/EOF TO THE SOLDIERS OF B3-67 AR. ON 24 JAN 08, ALL SOLDIERS INVOLVED IN THIS INCIDENT WERE PRESENT FOR THE TRAINING. ROE/EOF IS ALSO BRIEFED IN EVERY PATROL BRIEF PRIOR TO THE PATROL LEAVING THE FOB.

FINAL BDA FOR OPERATION:

1x LN KIA
1x VW PASSAT DAMAGED (2x 5.56MM IMPACTS)

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is GDCSDFS.

PRIVACY ACT STATEMENT

AUTHORITY:

Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 8337 dated November 22, 1943; JSSM.

PRINCIPAL PURPOSE:

To provide commanders and law enforcement officials with means by which information may be accurately identified.

ROUTINE USES:

Your social security number is used as an additional alternate means of identification to facilitate filing and retrieval.

DISCLOSURE:

Disclosure of your social security number is voluntary.

1. LOCATION Conference Room 3167 AR Toc	2. DATE (YYYYMMDD) 2006 02 06	3. TIME 10:15	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED]	6. SSN [REDACTED]	7. GRADE/STATUS 1LT	
8. ORGANIZATION OR ADDRESS B Co 3167 AR 4 ID			

9. [REDACTED] WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

1. Describe the events that lead to an escalation of force on 05 FEB 06. Include the following in your statement, if known.
 - a. What was your patrol's mission?
 - b. What caused your patrol to search the parking lot?
 - c. Describe your security perimeter. Include a sketch. Estimate the following, as you remember it:
 - i. Locations of US and IP vehicles.
 - ii. Locations of US and IP personnel.
 - iii. Locations of any warning signs that were posted.
 - iv. Any physical barriers to stop traffic that were used.
 - d. Who first identified the driver of the VW as a threat?
 - e. What did the driver of the VW Passat do that showed hostile intent?
 - f. What graduated responses were used to try to stop the vehicle prior to firing at it? For each graduated response, indicate the following:
 - i. How far away was the vehicle?
 - ii. Who executed the graduated response action?
 - iii. What was the driver's response?
2. Describe the actions were taken after the incident. Include the following, if known:
 - a. What actions were taken to treat the local national after he was shot?
 - b. What damage was done to the vehicle?
 - c. Was a claims card issued? If not, why not?

We, 1/D/3-67 AR, were conducting an Area Recon of Baladiat to engage the local nationals IOT gain intel about the area on 05 0930 FEB 06. We stopped at approximate grid [REDACTED] at approximately 1130 IOT talk to a guard of a parking lot. I wanted to find out whether he was carrying a weapon and what the purpose for the parking lot was in the location it was situated. We used our 4 HMMWVs to set up a security perimeter as the diagram indicates:

10. EXHIBIT E	11. INITIALS OF PERSON MAKING STATEMENT [REDACTED]	PAGE 1 OF 5 PAGES
------------------	---	-------------------

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF" _____ TAKEN AT _____ DATED _____

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.